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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,462	09/05/2003	Richard Lee Smith	1225.14	8430
21176	7590	09/01/2005	EXAMINER	
SUMMA & ALLAN, P.A. 11610 NORTH COMMUNITY HOUSE ROAD SUITE 200 CHARLOTTE, NC 28277			SOOHOO, TONY GLEN	
			ART UNIT	PAPER NUMBER
			1723	
DATE MAILED: 09/01/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/656,462	SMITH, RICHARD LEE	
	Examiner	Art Unit	
	Tony G. Soohoo	1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 05 September 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-33 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-33 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9-5-2003.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 4-10, 12, 15-25, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Moffett et al 5980836.

Moffett discloses a liquid mixing device which is fully capable to mix any liquid desired which is placed in the solution tanks 10, 12, 14, 16, pumps assemblies 68, 36, 44, 24, 102, 84, and a manifold (in figure 1) 20, at 52, at 76, at 78, (in figure 2) 20, 20A, 78, 78A, 76, 76A, (or in figure 3) 78, 106, 20, a drain assembly see figures labeled "drain". It is noted that each figure shows conduits and inherently have couplings to couple the conduits with the tanks, with the pumps, and with valves and drain such that a fluid connection is provide into a device of fluid handling system. With regards to claim 28 note that the tank 16 may be heated, column 2, line 65. It is also noted that the manner of use of the device is directed to a method of operation of the device and does not structurally distinguish the apparatus in a patentable sense and thus has been afforded little, if any patentable distinction.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moffett et al 5980836.

The Moffett (et al) reference discloses all of the recited subject matter as defined within the scope of the claims with the exception of couplings capable of receiving a hose (claim 3) and the pump being a diaphragm pump (claim 11). It is noted that the Moffett reference teaches conduits, and it has been deemed that the Moffett reference would inherently have couplings, however is absent to the capability of couplings to connect hoses. It is old and well known in the art of fluid handling that hoses may be used as fluid conduits whereby it may provide a more flexible conduit for ease of installation. Accordingly, it is deemed that it would have been obvious to one of ordinary skill in the art to modify the device of Moffett et al such that the couplings are capable of connecting hoses together so that hoses may be used for ease of construction of the fluid handling system.

With regards to claim 11, in the art of pumps, the particular species of a diaphragm pump is old and well known as a structural functional equivalent of a pump to pump fluid. Accordingly, it is deemed that it would have been obvious to one of ordinary skill in the art to substitute the pumps of the Moffet reference with a particular choice of the functional equivalent pump species of a diaphragm pump, so that fluid is moved in a more efficient manner.

5. Claims 13-14, 26-27, 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moffett et al 5980836 in view of Bullard 3957203 and Atkinson 3074649.

The Moffett (et al) reference discloses all of the recited subject matter as defined within the scope of the claims with the exception of the system being 13-14 is mounted on a vehicle or mobile platform, with a cab, boom, or basket and a nozzle.

The Bullard 3957203 reference teaches that a mixed fluid material supplied in a tank 134 may be provided upon a mobile platform 12 and sprayed utilizing a boom 76 mounted nozzle 82.

The Atkinson reference teaches that a fluid delivery system from a tank 9, boom 3 and nozzle 1 may be operated from the cab at 53.

It is also noted that it is old and well known in the art of boom assemblies to provide a basket for an operator.

In view of the Bullard and Atkinson references, it is deemed that it would have been obvious to one of ordinary skill in the art to provide for the mixing device of Moffett et al with a mount upon on a vehicle or mobile platform, with a cab, boom, or basket and a nozzle for the mixer tank device of Moffett et al so that the mixed fluid may be easily transported and delivered to particular location.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following disclose mobile devices: Krajeck et al 4805653, 6Henderickson 4812046, Hebert et al 4220170, Montanier 5004156, Krilla et al

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5104068, Cremers 3909197, Okano et al 5358568, Hahn 5433380. The following disclose mixing tanks Orlando 5502685, Nieuwkamp et al 5174730, Milovich et al 5759277, Carruth 5702536, Erlvh 5398733, Kroll 4474680, Purdon et al 6525237, O'Dougherty et al 5522660, Ebberts 6554207.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G. Soohoo whose telephone number is (571) 272 1147. The examiner can normally be reached on 7-5PM,Tue-Fri (As of 9/05 Fax will be 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tony G Soohoo
Primary Examiner
Art Unit 1723